



RESIDENTIAL DOCK PERMITTING

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DOCK PERMIT TYPES

One of three types of permits may be needed to replace a residential dock.

An **"Individual Permit"** is a permit that is specific to the proposed work. Often, it is required for new construction or work needing a detailed environmental review. The review process, which involves a public comment period, can take up to a year for dock construction.

A **"Certificate of Permission" (COP)** is required for minor activity, such as maintenance, on (1) previously authorized work, (2) unauthorized work completed before a specified date, or (3) environmentally beneficial activities. Obtaining a COP for routine dock maintenance or minor changes could take up to 90 days.

"General Permits" are needed for certain minor activities. A detailed review for these permits is generally unnecessary because the environmental impacts are known. A general permit for a residential dock is often issued within three months.

QUESTIONS

(1) Is a state permit required to replace an existing residential dock and (2) may someone have more than one residential dock on the same property?

SUMMARY

In general, all residential dock construction, including replacing an existing dock, requires a permit from the Department of Energy and Environmental Protection's (DEEP) Office of Long Island Sound Programs (OLISP). A limited exception exists for routine maintenance of permitted docks and those built before June 24, 1939 that are "continuously maintained and serviceable" since then.

The type of permit required to replace an existing dock depends on such things as whether the dock was previously permitted or is being rebuilt according to the original specifications.

Existing permitted docks being replaced according to the same specifications as the original permit qualify for a general permit. Replacing unpermitted docks built before 1995 can be authorized by a Certificate of Permission (COP). And replacing an unpermitted dock built after 1995 requires an individual permit.

Residential shoreline property owners have a right of reasonable access to navigable water ("littoral" rights), but are generally limited to one dock on the

property. Exceptions are rare and involve unusual or site-specific circumstances. A second dock is often considered unnecessary and an excessive encroachment on the area along the tidal and navigable waters for public use (public trust area).

The public trust doctrine, a common law doctrine that protects the public trust area, and the goals and policies of the state's Coastal Management Act try to minimize (1) encroachments into the public trust area and (2) adverse effects on coastal resources. The doctrine and the act's goals and policies, in effect, generally prohibit multiple residential docks on a single property.

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Permits for Dock Replacement

Depending on the type of construction involved, a person must obtain a general permit, a COP, or an individual permit from DEEP's OLISP to construct or reconstruct a residential dock, but not for routine maintenance on already permitted docks or those that were built before June 24, 1939 and continuously maintained and serviceable (i.e., fit for use for its intended purpose) since then. The type of permit required depends on the existing permit for the dock, the proposed construction involved, and the natural resources at the property.

If a residential dock was initially constructed under a permit and the owner proposes to rebuild it according to the same specifications authorized in that permit, the owner must obtain a [general permit](#).

If a dock was built before 1995 without a permit and was continuously maintained and serviceable, the owner may be able to obtain a COP for the work, but the dock's design may need to be modified to meet current design standards. Substantial maintenance or repair of existing permitted structures may also qualify for a COP.

If an unpermitted dock was built in 1995 or later, and the owner plans to reconstruct it, he or she needs an individual permit, which is generally required for erecting a structure or encroachment in the state's tidal, coastal, or navigable waters ([CGS § 22a-361](#)).

Residential Dock Design Considerations

DEEP reviews proposed construction activity, such as residential dock reconstruction, to determine its effect on coastal resources and uses before issuing a permit.

Residential docks must be designed to prevent shading tidal wetland grasses and intertidal flats. They must also (1) avoid submerged aquatic vegetation, (2) minimize encroachment into public trust lands (see below), and (3) allow for navigation and public access along the shore. The placement of a dock is limited to the minimum encroachment needed to provide reasonable access to the water.

When DEEP reviews proposed activities to determine their impact, it considers:

1. natural habitats and living marine resources,
2. shoreline erosion and coastal flooding,
3. water quality and pollution control,
4. use and development of adjoining lands,
5. coastal and inland navigation,
6. public trust land and water, and
7. rights and interests of people concerned about the activity ([CGS § 22a-359](#)).

POLICY AGAINST MULTIPLE DOCKS

According to DEEP's OLISP, residential property owners are rarely allowed more than one dock on their property because it would (1) be an excessive public trust encroachment and (2) run counter to the Coastal Management Act ([CGS § 22a-90 et seq.](#)). Further, the law specifies that waterfront access easements created after January 1, 1995 do not entitle the property interest holders to additional structures for water access ([CGS § 22a-363b](#), as amended by [PA 13-179](#)).

Exceptions have been made in very rare cases and typically involve unusual or site-specific circumstances.

Public Trust Doctrine

Under the public trust doctrine, the state's shore belongs to everyone. This means the general public can freely use intertidal and subtidal lands and waters, including the beach, rocky shore, and open water, for things such as fishing, shellfishing, boating, or walking.

The state is the trustee of this "public trust area," which includes the shore and extends up navigable rivers, including the Connecticut and Thames rivers, to the limit of the first dam or obstruction. DEEP preserves the public's rights to this area by regulating or limiting structures that encroach on it.

Private property ends at the mean high water line (the line on the shore based on the average of all high tides). Owners have reasonable "littoral" access rights to the water, meaning they can access coastal or navigable waters from their property through such things as a private dock.

DEEP provides information about the public trust doctrine on its website at http://www.ct.gov/deep/cwp/view.asp?a=2705&q=323792&deepNav_GID=1635.

Connecticut Coastal Management Act

By law, the DEEP commissioner must ensure that coastal permitting is consistent with the goals and policies of the state's Coastal Management Act. This includes issuing permits to erect structures (including docks) or place fill in tidal, coastal, or navigable waters. Anyone seeking permission to conduct an activity under the department's regulatory authority in the coastal area must show that the activity (1) is consistent with the act's goals and policies and (2) takes steps to mitigate adverse impacts on coastal resources and future water-dependent development activities ([CGS § 22a-98](#)).

Under the act, the state's goals and policies include, among other things:

1. ensuring that development, preservation, or use of land and water resources balances the rights of private property owners and the ability of the land and water resources to support the proposed activity without significantly disrupting the natural environment or sound economic growth;
2. preserving and enhancing coastal resources;
3. requiring structures in tidal wetlands and coastal waters to be designed, constructed, and maintained to minimize adverse impacts on coastal resources, circulation and sedimentation patterns, water quality, flooding and erosion, and the rights of adjacent landowners; and
4. minimizing adverse impacts on adjacent coastal systems and resources ([CGS § 22a-92](#)).

According to DEEP's OLISP, any structure placed in state waters causes some adverse impact, and it has been long standing policy and responsibility of the department to minimize excess encroachments, such as multiple docks, while allowing for reasonable littoral access.

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